



## Article 7. Interim Status

### §66270.70. Qualifying for Interim Status.

(a) Any person who owns or operates an "existing HWM facility" or a facility in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the requirement to have a permit shall have interim status and shall be treated as having been issued a permit to the extent the owner or operator has:

(1) complied with the requirements of Health and Safety Code section 25153.6 pertaining to notification of hazardous waste activity. Existing facilities not required to file a notification under Health and Safety Code section 25153.6 shall qualify for interim status by meeting subsection (a)(2) of this section;

(2) complied with the requirements of section 66270.10 governing a submission of Part A applications.

(b) When the Department determines on examination or reexamination of a Part A application that it fails to meet the standards of these regulations, it shall notify the owner or operator in writing that the application is deficient, and specify the grounds for the Department's belief that the application is deficient. The Department may also notify the owner or operator that the owner or operator is therefore not entitled to interim status. The owner or operator will then be subject to enforcement for operating without a permit.

(c) Subsection (a) of this section shall not apply to any facility which has been previously denied a permit or if authority to operate the facility has been previously terminated.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 270.70.

#### HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

### §66270.71. Operation During Interim Status.

(a) During the interim status period the facility shall not:

(1) transfer, treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

(2) employ processes not specified in Part A of the permit application; or

(3) exceed the design capacities specified in Part A of the permit application.

(b) Interim status standards. During interim status, owners or operators shall comply with the interim status standards in chapter 15 of this division.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25200.5, Health and Safety Code; 40 CFR Section 270.71.

#### HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

### §66270.72. Changes During Interim Status.

(a) Except as provided in subsection (b) of this section, the owner or operator of an interim status facility may make the following changes at a facility:

(1) transfer, treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to transfer, treat, store or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits and receives Department approval of a revised Part A permit application prior to such transfer, treatment, storage or disposal;

(2) increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Department approves the change because:

(A) there is a lack of available transfer, treatment, storage, or disposal capacity at other hazardous waste management facilities, or

(B) the change is necessary to comply with a Federal, State, or local requirement;

(3) changes in the processes for the transfer, treatment, storage, or disposal of hazardous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Department approves the change because:

(A) the change is necessary to prevent a threat to human health and the environment because of an emergency situation, or

(B) the change is necessary to comply with a Federal, State, or local requirement;

(4) changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of chapter 15, article 8 (Financial Requirements) of this division, until the new owner or operator has demonstrated to the Department compliance with the requirements of that article. The new owner or operator shall demonstrate compliance with article 8 requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with article 8, the Department shall notify the old owner or operator in writing that it no longer needs to comply with article 8 as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the

change in ownership or operational control of the facility;

(5) changes made in accordance with an interim status corrective action order issued by the USEPA under 42 U.S.C. section 6928(h) or other Federal authority, by the Department under article 8, commencing with section 25180, of chapter 6.5 of division 20 of the Health and Safety Code, or by a court in a judicial action brought by the USEPA or by the Department. Changes under this subsection are limited to the transfer, treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(6) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this subsection, changes listed under subsection (a) of this section shall not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(1) changes made solely for the purposes of complying with the requirements of section 66265.193 for tanks and ancillary equipment;

(2) if necessary to comply with Federal, State, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of 42 U.S.C. section 6924(o);

(3) changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been transferred, treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification;

(4) changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan;

(5) changes necessary to comply with an interim status corrective action order issued by the USEPA under 42 U.S.C. section 6928(h) or other Federal authority, by the Department under article 8, commencing with section 25180, of chapter 6.5 of division 20 of the Health and Safety Code, or by a court in a judicial proceeding brought by the USEPA or the Department, provided that such changes are limited to transfer, treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;

(6) changes to transfer, treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by chapter 18 of this division or 42 U.S.C. section 6924, provided that such changes are made solely for the purpose of complying with chapter 18 of this division or 42 U.S.C. section 6924.

(7) Addition of newly regulated units under subsection (a)(6) of this section.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6, 58004 and 58012, Health and Safety Code.  
Reference: Sections 25159, 25159.5 and 58012, Health and Safety Code; 40 CFR Section 270.72.

#### HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (b)(6) and Note filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (b)(6) and Note refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (b)(6) and Note refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (b)(6) and NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
7. New subsections (a)(6) and (b)(7) and amendment of NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).

#### **§66270.73. Termination of Interim Status.**

Interim status terminates when:

(a) final administrative disposition of a permit application is made; or

(b) interim status

is terminated as provided in section 66270.10(e)(3);

(c) for owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, on November 8, 1985, unless one of the following applies:

(1) part A of the facility's permit application specifies that only non-RCRA hazardous waste will be disposed of at the facility; or

(2) the owner or operator of the facility does both of the following:

(A) submits a Part B application for a permit for such facility prior to that date; and

(B) certifies that such facility is in compliance with all applicable ground-water monitoring and financial

responsibility requirements;

(d) for owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Health and Safety Code that render the facility subject to the requirement to have a permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to such permit requirement unless one of the following applies:

(1) part A of the facility's permit application specifies that only non-RCRA hazardous waste will be disposed of at the facility; or

(2) the owner or operator of the facility does both of the following:

(A) submits a Part B application for a permit for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and

(B) certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements;

(e) for owners or operators of any land disposal unit that is granted authority to operate under section 66270.72(a)(1), (2) or (3), on the date 12 months after the effective date of such requirement, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be disposed of at the facility; or

(2) the owner or operator certifies that such unit is in compliance with all applicable ground water monitoring and financial responsibility requirements;

(f) for owners or operators of each incinerator facility which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1989, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be incinerated at the facility; or

(2) the owner or operator of the facility submits a Part B application for a permit for an incinerator facility by November 8, 1986;

(g) for owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminates on November 8, 1992, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous wastes will be transferred, treated, or stored at the facility; or

(2) the owner or operator of the facility submits a Part B application for a permit for the facility by November 8, 1988.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 58004 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25200.5 and 25200.7, Health and Safety Code and 40 CFR Section 270.73.

#### HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Editorial correction restoring appropriate hierarchical structure (Register 93, No. 20).
3. Amendment of subsections (f) and (g) and NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).